App F IX 4

1946 47 (Mund)

File No 23-46

Serial Nos. 84

Previous References
rel Dept no 88/45

Later References
Ml 24-48 (107, 108, 109)
CM 26-51-8
CM 6-52-18-20
CM 4 54-18

GENERAL AND REVENUE SECRETARIAT

Serial Nos 211

Part B for April 49

SUBJECT

Acquisition of a portion of municipal no 57/2+6 in Tankasala Narayana-Setty Lane II Division Bangalore city for a Conservancy Lane

Bangalore City Municipality

No L1.C.1047/44 MUNICIPAL OFFICES,

Encl 1 Plan, 1 Valuation Statement, Duplicate Notifications. *Bangalore* August 15, *1946*

FROM

SAFI DARASHAH, Esq, B A,

MUNICIPAL COMMISSIONER,

BANGALORE CITY.

TO

J B MALLARADHYA, Esq., M A,

Secretary to Government,

Revenue Department, Bangalore

SIR,

Subject - Acquisition of a portion of Municipal Nos 5/2 & 6 in Tankasala Narayana Setty Lane, II Division, Bangalore City, for a conservancy lane

---

With reference to Government Notification No. L 7035 M1 22-45-32 dated 21-1-1946 authorising the Special Land Acquisition Officer attached to this Municipality to hear objections under Section 5 (A) of the Land Acquisition Act, I have the honor to state that the notified owner of the property Mr.Raja Lakshminarayana Setty had filed an objection petition on 13-4-1946, through his consel Mr M P Somasekhara Rao, B.A.,LL B , Advocate, Bangalore City, protesting against the said acquisition under Section 6 ~~x~~ (1) of the Land Acquisition Act The said objection petition along with the report of the Special Land Acquisition Officer was placed before the Municipal Council for consideration The Municipal Council at their meeting held on 6-7-1946 have resolved that the acquisition of the property may be proceeded with and a sum of Rs.5/- may be paid out of Municipal Funds towards the cost of acquisition with a view to retain the hold of the Municipality, over the acquired property and to satisfy the proviso of section 6 (1) of the Land Acquisition Act

A copy of the objection petition and a copy of the council resolution are enclosed herewith for favour of kind reference.

The draft final declaration statements in duplicate both in English and Kannada are herein enclosed for kindly arranging publication in Mysore Gazette.

Out of the estimated cost of acquisition amounting to Rs 161/-, a sum of Rs 5/- will be met out of Municipal Funds and the balance of Rs.156/- and also the entire cost of acquisition such as enhanced compensation, interest, court costs etc., will be borne by Mr.N Gopala Krishna Setty, owner of Door No 7, Tankasale Narayana Setty Lane, Bangalore City, as per registered agreement executed by him on 26-10-1945, in this behalf.

- over -

1446/2 965 Tenu

I request that orders of Government may kindly be obtained for the said acquisition authorising the Special Land Acquisition Officer attached to this Municipality to take orders for the acquisition under section 7 of the Land Acquisition Act.

The compiler, Mysore Gazette, may be requested kindly to send 15 spare copies of Notifications to this office as usual.

I have the honor to be,
Sir,
Your most obedient servant,

Municipal Commissioner.

Bsk.

Sent with 3 drafts' Sanctioning the acquisition

28/8

for

Sd/-

Sd/9

for 28/8/46

1447
L

A notification under Sec. 4 of the Land acquisition Act is stated to have been published The owner has filed his objections under Sec. 5 A of the Act. The Municipal Council have over-ruled the objections (Flag O) and have ordered that final notification under section 6 may be made.

The first objection is that the acquisition is malafide and at the instance of one Mr.Gopalakrishna Setty against whom the owner has obtained a decree. It is stated in the notification that the land is required for a public purpose, viz., opening a conservancy Opening of a conservancy is a public purpose, as it improves general sanitation. Therefore, the state of feelings between the parties affected cannot be taken into consideration

7) The second objection is that the acquisition is unnecessary and not for a public purpose The question whether there is any other possible method of carrying out the object is essentially an administrative matter. The Municipality considers that it is necessary.

A

102

13 Sep 1949

8) A portion of the cost of acquisition is to be met by the Municipality. Therefore, the final notification may issue as suggested by the Municipality

Land Dept) 12/9

Rev Secy) 14/9

1a? The draft G.O. put up for Consideration 17/9

11 It is for orders whether further enquiry as above 18/9

12 1819 enquiries and report at Bangalore

From Dhone? Called for 18/9 for further clarification 18/9

1447

13 11 Writ up for mtn. There is a petition rec'd on this behalf — 11 Writ up 2/5/19

13 The petition received from the Party is filed up There is no Counter on the subject

Sm 2/6/19 16 The owner of the property proposed to be acquired has filed another petition. He requests that the facts mentioned by him may be taken into consideration & the acquisition proposed may not be sanctioned. The position is alright so far the legal aspect is concerned stated at paras 5 to 8 supra But having regard to the background of the case in which the several Courts have dealt with the question of the proprietorship of the land, it has to be conceded that the proposed acquisition is only for one individual & not for public purpose. Petitioner is agreed to pay the cost & he is agreed to pay the cost in order to satisfy the legal

1467

requirements, the M L C has agreed to pay a nominal sum of Rupees five towards the charges. Moreover, the M L C has not met the points raised by the Counsel for the petitioner Raja Lakshman Ramaswamy. The case in this case is likely to keep alive the hatred between the two parties. It seems therefore necessary to call for a further report from the M L C. Also a copy of the petition (whether there is any other method of carrying out the object in view. For orders with a draft letter requesting for a full report on the points raised.

14/12/46

Issue draw

20/12/46

20/12/46

To the M L C

Also to do 24-10-46

calls for full report

3592 / 1447

Petition from the Raja Lakshminarayana Selty, protesting against the acquisition of his land in Tankasala Narayana Selty Lane — Baracoe.

Municipal Memo

15/6 Please call for a report from the Municipal Town Clerk

11-11-46

14) A draft reminder to the Municipal Engineer is sent up

, Engineer

20/6 20) As a report is since 30/11/46 received, this will be laid before

23/4

from the Municipal Town Baracoe City

Clerk dated 14-11-46

States that the city Municipal Council has decided that the acquisition of a portion of Municipal No. 37-2 of 6 in Tankasala Narayana Selty Lane, is in the interest of the public, that after the land is acquired

Serial No

"it would converted into a pucca conservancy lane and maintained by the Municipality and requests sanction to the resolution dated 4th that the Municipality to acquire the said property

21) Submitted for perusal

Refer para 18 Supra

P V D

23/11 29) He is now reported that Mr. Jayalakshmi Ammal is having underground pipe line on the land in question for the last four years that there is no other place where he can take his sewage pipe line that the owner of the property has also agreed to give Mr. Munisamappa taking the underground pipe line in the land

It is further stated that the said Mr. Munisamappa has got 4 tenants in his house intends to take three more connections (flushouts) The lane after which will be converted into a pucca conservancy lane & maintained as such by the Municipality

3) It may be pointed out in this connection that, in the previous reports on the subject, there is no reference to Mr. Munisamappa & the flushout connections to be given to him. The petitioner has stated that "the house belonging to Munisamappa utters into its own flushout privy & drains connected with the underground sewage mains running thro' Katte Subbiah

The property of the house is not at all there in the sketch plan

NOTE—Contn Sheet

to the Land. There is no necessity for them to use the land intended to be acquired"

24) It is readily clear that Mr Polakhanemself would pay for the acqn if the land were not intended for any use. A reference has been made to the sale deed dated 8/11/97 according to which the owner of the property has agreed to Mr Munisamappa taking the undisputed fact has not been replied to previously However it is hard to understand how the pattas Munisamappa has secured without paying this claim for over 49 years

25) It may seem from the history of the case as given in the copy of the statement before the Special L. A Officer, though fully that Mr Polakhanemself having failed to secure his object for the land in question has taken recourse to this device of approaching the Hdl & to see that it is acquired somehow Hdl have agreed to entertain a proposal & to make the acquisition provided one & to welcome the legal difficulty that would be in its way for a public purpose

26) The point for consideration is whether, in the circs of the case, the acquisition may be sanctioned or not, whether the feelings of the parties will not be to the effect that the Govt has tried to help one person to the prejudice of the interests of another

WD 03814—GPB—15 000—20 7 46

3926
L

and whether it may not be advisable
to arrive at a decision in this case
after spot inspection

27) For orders with regard to transfer
orders at para 18 supra - vide
also para 17 supra

Rev reg) Ln
29/11/46

28) The spot may perhaps be
inspected & orders passed thereafter
It seems however too small
a matter for inspection by
Govt for orders, re disposal of the
Case

Minister for Edn & PH)

Lons
15/1/47
Imm
15/1/47

OFFICE OF THE MINISTER
FOR EDUCATION & P H
Date 16-1-47
No H S & S

29) I shall inspect
the spot on the 24th
inst at 9 A.M. Please inform
the two Comms & party FH

Today
XXX

18/1/47
Lons
21/1/47

30) A draft letter is put up

Ln
21/1/47

Immediate
Lons
21/1/47

3426

To Rajaratnasabapathy Selvy
No 6 Tankasala Narayana Selvy Lane
II Division, Bazaar
L 10317 d 21-1-47

Instructions that the Minister for Education would inspect the Model at 9-AM on 24-1-47 & requests him to be present at the time & inspection

L 10318 d 21-1-47

Copy to Mr Govan for information necessary action

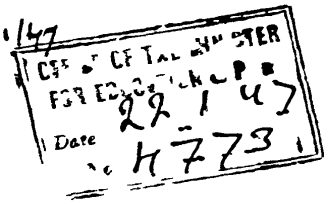
This will be sent to the Ministers office

P A to the
Minister for Education
Ack 24/1/47 (Fwd) 22/1/47

It is ascertained from the Ministers office that this model also would be inspected by the Minister on 23-1-47 at 9-AM

A change is forwarded

Ack 24/1/47



TO-Mr. Rajaratnasabapathy Selvy 22/1/47
The Manager
L 10316 d 22-1-47
for Instructions accordingly

C F 69]

Continuation Sheet | File No / Current No | of | Page

I inspected the spot and have also heard the parties. There is no need to sanction the requisition as it would not serve any public purpose.

15/3/47

DR 1573

DR reply please

15/3/47

Send with a draft reply

16/3/47

17/3/47

To the Nagalakshmi Mills

The Mill Co.

1369 dated 28-3-47

acknowledge

WD 02139—GPB—20 000—26 2 45

C F 69]

Continuation Sheet

File No 84-25/3426
Current No

of

Page

petition for delete 20-2-47 from the Hyde
Kallakurichi Taluk ~~Taluk~~ Taluk. Early orders be
issued.

As orders have already been
issued, no further action is necessary

Yes. May be recorded

23/4

B

6156

Letter dated 23-1-47 from Mr B N K Iyengar, Advocate, Hardinge Road, 15 Lane requesting that he may be given an opportunity to explain certain facts, in connection with the acquisition of a portion of Door No 37 & 38, in Tambacada Navayana Setty Lane, V Division Bangalore

Minister's Minute

1) He may be given a hearing on 20th February 1947

Dept. T. & H.R.
25-1-47

2) Advocate's letter is sent herewith

Jr
3/2/47

Despatched
3/2/47

To B N K Iyengar Esq Advocate
Hardinge Road, No 3, Shankarapura,
Bangalore City
& 10924 dt 5-2-47

Returns accordingly
The file will be sent to the Minister's
Office

P A to the
Minister for Revenue & Housing 6/2/47

7 2 47
No 5175
5/2/47

L5070/p & 24.10.46

To

The Municipal Comm
Bangalore City

Subj - Acquisition of a portion of Municipal No 5/2 of 6 in Tamkadala Narayana Setty Lane, II Division, Bangalore City, for a Conservancy Lane

Sir,

With reference to your letter no LIC 1084/46 dated 15-8-46 on the above subject, I am directed to point out that the records disclose that the proposed acquisition of land is intended for the benefit of one individual, viz Mr Gopalakrishna Setty, who has however agreed to pay the acquisition charges. The point raised by the Counsel for Mr Rajalakshmamah Setty re the desirable publication of the acquisition has not also been answered in your letter

In the circumstances, I am to request that on receipt of your submissions on the merits of the

Case, as set forth by the petitioner very ~~and~~ ~~whether~~

there is any other method of carrying out the object in view, may be furnished to ~~the~~ ~~Court~~ very

~~early~~

~~[illegible]~~ Lord [illegible]
~~[illegible]~~ Reverend Legg

Please call for a report from the Land Commr

GEN & REV SECRETARIAT
3592
13 NOV 1946
L S G BRANCH.

From,

Raja Lakshminarayana Setty,
No 6 Tankasale Narayana Setty
IInd Division,
Bangalore City

Rev Secy

OFFICE OF THE MINISTER FOR EDUCATION & P
Date 12-11-46
No 615

To,

The Minister,
Local Self Government (Government of Mysore)
Bangalore

17/11/46

Ref -No L 7035-ML-22-45-32 In the matter of the proposed acquisition of portion of Municipal Door No 5/2 and 6 Tankasale Narayana Setty Lane, Second Division, Bangalore City

---

Sir,

In continuation of the objections to the acquisition of the above property submitted by me to the Special Land Acquisition Officer, Bangalore City Municipality on 14th April 1946 (Copy of which herewith produced to you for reference), I beg to state that the proposed acquisition is not necessary in public interest The land is not required for any public purpose and will not be useful to the public

The acquisition is really intended to benefit one Mr N Gopalakrishna Setty, owner of house No 7 to enable him to defy the decree in O S No 195/41-42 of the First Munisiff's Court, Bangalore and in R A No 155/42-43 in the Court of the Additional Sub Judge and finally confirmed by High Court in S A No 216/43-44

I pray that my objections above mentioned may be referred to and what I have stated above may also be taken into consideration and the proposal to acquire the land in question be not sanctioned

I beg to remain,
Sir,
Your most Obedient Servant

Bangalore
11-11-46.

Copy

BEFORE THE SPECIAL LAND ACQUISITION OFFICE BANGALORE CITY MUNICIPALITY

Ref - No.L 7035-M1 22-45-32

In the matter of the proposed acquisition of portion of Municipal Door No 5/2 and 6 Tankasale Narayana Setty lane Second Division, Bangalore City

Petitioner (Objector) Raja Lakshminarayana Setty, son of Raja Venkatasubbiah Setty, Merchant, residing in No 6 Tankasale Narayana Setty lane, Bangalore City.

The above named Petitioner Raja Lakshminarayana Setty begs to state as follows under sections 4 and 5A of the Land Acquisition Act:-

1. The Petitioner above named learns that it is proposed to acquire the open land forming a part of his house property bearing door No 5/2 and 6 in Tankasale Narayana Setty street IInd division Bangalore City and that a notification under Section 4 of the Land Acquisition Act is published in the Mysore Gazette dated 14-3-46 inviting objections from persons interested in the property

2 The Petitioner is the owner of the property intended to be acquired and objects to the acquisition on the grounds hereunder:-

3. There are two houses adjoining the open land to be acquired apart from the Petitioner's house of which the land forms a part and is situated to its west. These two houses are (1) Door No 7 belonging to N. Gopalakrishna Setty which is on the west and (2) a house belonging to Muniswamappa and others which is on the North The house belonging to Muniswamappa & others has its own flushout privy and drains connected with the underground drainage mains running through Kota Subbiah Setty's lane. There is no necessity for them to use the land intended to be acquired. The drainage and privy connections from N. Gopalakrishna Setty's house were laid through the

in question by Gopalakrishna Setty notwithstanding the protests of the present Petitioner and during the pendency of O.S. No 195/41-42 in the First Munisiff Court Bangalore a suit filed by the Petitioner to restrain the said Gopalakrishna Setty from laying the underground drainage pipes from his house through this land now proposed to be acquired. In the said suit a temporary injunction has been obtained to prevent the laying of the pipes in the said land. Gopalakrishna Setty however got the temporary injunction cancelled by giving to the Court an undertaking that in the event of the suit being decreed in favour of the plaintiff i e. the present Petitioner (Objector), the underground drainage pipes laid in the land would be removed and land restored to its original condition In the suit the Petitioner claimed to be the owner of the vaca.. land in question while Gopalakrishna Setty claimed common ownership with the Petitioner and also pleaded that he had a right of easement which entitled him to lay the pipes through the land. The Munisiff held that the land belonged exclusively to the Petitioner and that Gopalakrishna Setty had no right thereto, but upheld his plea of easement On appeal in R A. No 155/42-43 of the Court of the Additional Sub Judge both the pleas of Gopalakrishna Setty were negatived and a decree was passed in favour of the petitioner directing the removal of pipes in question This decree was confirmed by the High Court of Mysore in S.A. No 216/43-44. Thereafter the Petitioner took out execution in Execution case No 822 of 1943-44 of the Court of the First Munisiff Bangalore in order to have the underground pipes removed from the land in accordance with the decree and the undertaking given by Gopalakrishna Setty Gopalakrishna Setty has after taking adjournments in the execution case managed to influence some Municipal Councillors to propose the acquisition of the lane by the Municipality in order to circumvent the decree passed against him The Petitioner understands that the said Gopalakrishna Setty has undertaken to pay the cost of the acquisition and that the

f. the City Improvement committee and Municipal

Municipal Council are specifically to the effect that the land should be acquired at the cost of Gopalakrishna Setty. In view of the proviso to S 6 (1) of Land Acquisition Act, it is not permissible to make a declaration under S 6 (1) of the Act.

4. The Petitioner desires to point out that the use of the land in question for the laying flush out and drainage connections pipes from the house of Gopalakrishna Setty is quite unnecessary. It is quite possible and convenient for the said Gopalakrishna Setty to have his flushout and privy and drains connected with the street mainx pipes by means of pipes running through his own house. In fact the owners of all houses in the street with the exception of Gopalakrishna Setty have laid pipes connecting their privies and drains through their own houses. It was admitted by Gopalakrishna Setty in the course of his deposition in O.S. No 195/41-42 of the Court of the First Munisiff Bangalore that owners of other houses in the street like Seetharama Setty had laid their flushout connections pipes through their own houses and that it was possible for him also to do likewise. He further stated that the reason for his using the land in question was that it was common property a contention which was negatived by the court. A certified copy of his deposition is herewith produced. It is further submitted that the acquisition which intended to benefit only one person is not really necessary for a public purpose

5. Gopalakrishna Setty having thus failed in his contention that he is a co-owner of the land and being actuated by personal animosity against Petitioner is now endevouring to get the land in question acquired in order to render the decree obtained by the Petitioner infructious. It is submitted that this malafide objct ought not to receive any kind of assistance from Public authorities.

6. The underground connection from the Petitioner's house no doubt runs through this land. As the owner of the land he is entitled to use it for this or any other purpose and no

P T O

no one else has any right to use the land for any purpose whatsoever.

7. If the land is kept open and converted into a conservancy lane as proposed people passing in the street and neighbours will commit nuisance therein with the result that great annoyance would be caused to the Petitioner and his family and the sanitary condition of the entire locality will greatly deteriorate. In order to avoid the land being used by passers by in this manner a door had been previously kept in the southern portion. This door was removed while getting the drainage pipes from the petitioner's house laid through this land. The ~~Kazim~~ Petitioner intends to have the door fixed up again as soon as the execution of the decree obtained by him in the above suit is completed. This step will avoid the ~~nicance~~ nuisance which would be otherwise committed in the above lane to the detriment of health of members of his family as also other people in the neighbourhood.

7(A) Other objections which do not fall within S 5A are reserved.

8. For the foregoing reasons the Petitioner (Objector) submits -

(a) that the use of the land ~~is~~ is not required for the house of northern side,

(b) that the acquisition of the lane is not necessary for the purpose of connecting the privy and the drains in Gopala rishna Setty's house No 7 since admittedly it is possible to lay the connections through his own house as other people in the street have done,

(c) that Gopalakrishna Setty had given an undertaken in the Court in the abovementioned suit to remove the underground connections of his house running through the land in the event of there being a decree against him, and he is bound to comply with the decree.

(d) that the result of acquiring the land and converting into a Municipal conservancy lane as proposed would be to make the land a source of constant nuisance to the petitioner's family and other neighbours thus rendering the locality extremely insani

insanitary,

(e) that the effect of the acquisition would be to assist Gopalakrishna Setty to defy the solemn decree granted by the Subordinate Judge and confirmed by the High Court of Mysore in the aforesaid suit and to render it quite infructious and that no public authority ought to assist or encourage him in so defying the decree,

(f) and that the acquisition is not permissible in view of proviso to S 6 (1) of the land acquisition act.

9. For the foregoing reasons the petitioner objects to the compulsory acquisition of the land in question and prays that the petitioner be given a hearing so as to afford the petitioner an opportunity of producing all the references on which he relies and to have case fully presented by his counsel and that an inquiry to be held in accordance with S 5A (2) and a report be made to the Government that the acquisition is not necessary for any public purpose, that no conservancy lane is called for in the locality and the proposed acquisition be dropped

I Raja Lakshminarayana Setty, Petitioner abovenamed state that what is set forth above is true to the best of my knowledge and belief

GEN & REV SECRETARIAT
2926
2 NOV 1946
L S G BRANCH

Bangalore City Municipality

No L1 C 104//44-45
Encl 2

MUNICIPAL OFFICE,
Bangalore 19th Nov 1946.

FROM

SAFI DARASHAH Esq, B A,
MUNICIPAL COMMISSIONER,
BANGALORE CITY

To

J.B Mallaradhya, Lsq , M A ,
Secretary to Government,
Revenue Department, Bangalore.

SIR,

Subject - Acquisition of a portion of Municipal Nos 5/2 & 6 in Tankasale Narayana Setty Lane, II Division, Bangalore City, for a conservancy Lane.

With reference to your letter No 5070/P, dated 24-10-1946 on the above subject, I have the honor to state that the said acquisition has been proposed by the Municipal Council, since that the party Mr N. Gopalakrishna Setty is having Underground pipe line on the land in question for the last four years and that there is no other place where he can take the Sewage pipe line Further the owner of the property has agreed to Mr. Munisamappa's taking the Underground pipe line etc in the lane as per condition specified in the sale deed dated 8-11-1897 (copy enclosed).

Taking all these into consideration, the objection raised by the party along with the report of the Special Land Acquisition Officer was placed before the Municipal Council, dated 6-7-1946 who after deep consideration have unanimously came to the conclusion that the acquisition was necessary in the interest of the public That is why they have decided to give Rs 5/- from Municipal Funds towards cost of acquisition to retain hold over the acquired property Since Mr.N Gopalakrishna Setty had himself volunteerly come forward with an application stating that he would pay

P T O

the cost of acquisition, it was accepted by the Municipal Council

Mr.Munisamappa, the neighbouring owner of the property under acquisition, has got 4 tenants in his house and got only one Flush-out latrine for their use, at present. Three more connections are necessary for the said building and he has also applied for taking Underground connections in this case

After the proposed land is acquired, it will be converted into a pucca conservancy lane and maintained by this Municipality

In the above circumstances, I request that sanction of Government may kindly be obtained for the said acquisition.

The petition accompanies

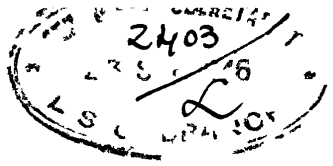
I have the honor to be,
Sir,
Your most obedient servant,

Municipal Commissioner.

Forwarded with compliments

Honorary President.

Bsk.



To

The Secretary,
Revenue & Local Self Government,
Bangalore

Ref - No L 7035-ML-22-45-32 In the matter of the proposed acquisition of portion of Municipal Door No 5/2 & 6 Tankasale Narayana Setty Lane, Second Division, Bangalore City

---

Sir,

In continuation of the objections to the acquisition of the above property submitted by me to the Special Land Acquisition Officer, Bangalore City Municipality on 14th April 1946 (copy of which was forwarded to you for reference), I beg to state that the proposed acquisition is not necessary in public interest The land is not required for any public purpose and will not be useful to the public

The acquisition is really intended to benefit one Mr N Gopalakrishna Setty, owner of house No 7 and to enable him to defy the decree in O S No 195/41-42 of the First Munsiff's Court, Bangalore and in R A No 155/42-43 in the Court of the Additional Sub Judge and finally confirmed by High Court in S A No 216/43-44

I pray that my objections above mentioned may be referred to and what I have stated above may also be taken into consideration and the proposad to acquire the land in question be not sanctioned

I beg to remain,
Sir,
Your most obedient servant,

Bangalore,
20th September 1946

Council Proceedings dated 6-7-46

Subject No. 84

Mr. G Manjappa observed that the Council had decided the acquisition xx of this property after considering all the pros and cons and that the Special Land Acquisition Officer had only to carr out their resolution. But he had raised a pertinent point that unless the municipal interest was indicated in the acquisition it would not be justifiable under the Land Acquisition Act. So he proposed that a sum of Rs 5/- may be xxxd/xf paid out of municipal f funds to make the acquisition a municipal one.

At this stage, the President read out the report of the Specia Land Acquisition Officer at the request of the Members

Mr. Devudu Narasimha Sastry observed that this was an acquisiti for a public purpose, viz., for a conservancy lane and so may be approved.

Mr G V.Ramachar pointed out that the Special Land Acquisition Officer had only to carry out the instructions of the Council and no raise such points. As re payment of municipal funds towards acquisition cost, he observed that a sum of Rs 10/- may be paid and this was supported by Mr. N Y Pissay but subsequently this was not pressed.

Then the following resolution was adopted by the House

" The acquisition of the property may be proceeded with and a sum of Rs 5/- may be paid out of municipal funds towards the acquisition cost with a view to retain the hxldxxf hold of the Municipality over the acquired property

" Copy "

Municipal Commissioner

Sivashankar,
Hon.President.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No L5070/P *Dated Bangalore, 24th October 1946*

FROM

The Secretary to the Government of His Highness
the Maharaja of Mysore
Revenue Department

To

The Municipal Commissioner,
Bangalore City

Sir, Subject:- Acquisition of a portion of Municipal Nos 5/2 and 6 in Tankasale Narayana Setty lane, II Division, Bangalore City, for a conservancy lane

With reference to your letter No L1 C 1087/47 dated 15th August 1946, on the above subject, I am directed to point out that the records disclose that the proposed acquisition of land is intended for the benefit of one individual, viz, Mr N Gopalakrishna Setty, who has agreed to pay the acquisition charges The points raised by the Counsel for Mr Rajalakshmaiah Setty re: the bonafide public purpose of the acquisition have not also been - answered in your letter.

In the circumstances, I am to request ~~them~~ the submission of a further report on the merits of the case, as set forth by the petitioner very early

The petition accompanies

I have the honour to be,
Sir,
Your most obedient servant,

For Secretary to Government,
Revenue Department

S/pare copy

mk2

C O P Y

B[illegible] SPECIAL LAND ACQUISITION OFFICER FOR CITY MUNICIPALITY

(47)

Ref:- No. L. 7035-M1 22-45-32

In the matter of the proposed acquisition of portion of Municipal Door No 5/2 and 6 Tankasale Narayana Setty lane second division, Bangalore City.

Petitioner (Objector) Raja Lakshminarayana Setty, son of Raja Venkatasubba Setty, Merchant, residing in No. 6 Tankasale Narayana Setty lane, Bangalore City.

The above named Petitioner Raja Lakshminarayana Setty begs to state as follows under sections 4 and 5A of the Land Acquisiton Act:-

1. The Petitioner above named learns that it is proposed to acquire the open land forming a part of his house property bearing door No 5/2 and 6 in Tankasale Narayana Setty street, second division, Bangalore City and that a notification under Section 4 of the Land Acquisition Act is published in the Mysore Gazette dated 14-3-46 inviting objections from persons interested in the property.

2. The Petitioner is the owner of the property intended to be acquired and objects to the acquisition on the grounds hereunder:-

3. There are two (2) houses adjoining the open land proposed to be acquired apart from the Petitioner's house of which the land forms a part and is situated to its west. These two houses are (1) Door No 7 belonging to M. Gopalakrishna Setty which is on the west and (2) a house belonging to Munisvamappa & others which is on the north. The house belonging to Munisvamappa and others has its own flushout and privy and drains connected with the underground drainage mains running through Kota Subbiah Setti's lane. There is no necessity for them

A

P T O

them to use the land intended to be acquired. The drainage and privy connections from Mr.N. Gopalakrishna Setty's house were laid through the open land in question by Gopalakrishna Setty notwithstanding the protests of the present Petitioner and during the pendency of O.S. No 195/41-42 a suit filed in the Court of the Ist Munisiff Bangalore by the Petitioner to restrain the said Gopalakrishna Setty from laying the underground drainage pipes from his house through this land now proposed to be acquired. In the said suit a temporary injunction has been obtained to prevent the laying of the pipes in the said land. Gopalakrishna Setty however got the temporary injunction cancelled by giving to the Court an undertaking that in the event of the suit being decreed in favour of the Plaintiff i.e. the present Petitioner (objector) the underground drainage pipes laid in the land would be removed and land restored to its original condition. In the suit the Petitioner claimed to be the owner of the vacant land in question while Gopalakrishna Setty claimed common ownership with the present petitioner and also pleaded that he had a right of easement which entitled him to lay the pipes through the land. The Munisiff held that the land belonged exclusively to the Petitioner and that Gopalakrishna Setty had no right thereto, but uphold his plea of easement. On appeal in R.A. No 185/42-43 of the Court of Additional Sub Judge both the pleas of Gopalakrishna Setty were negatived and a decree was passed in favour of the petitioner directing the removal of pipes in question. This decree was confirmed by the High Court of Mysore in R.A. No. 216/43-44. Thereafter the Petitioner took out execution in Execution case No 822 of 1943-44 of the Court of Ist Munisiff Bangalore in order to have the underground pipes removed from the land in accordance with the decree and the undertaking given by Gopalakrishna Setty. Gopalakrishna Setty has after taking adjournments in the execution case managed to influence some Municipal Councillors to propose the acquisition of the land by Municipality in

in order to circumvent the decree passed against him. The petitioner understands that the said Gopalakrishna Chetty has undertaken to pay the cost of the acquisition and that the resolutions of the City Improvement Committee and Municipal Council are specifically to the effect as that the land should be acquired at the cost of Gopalakrishna Chetty. In view of the proviso to S 6 (1) of Land Acquisition Act, it is not permissible to make a declaration under S 6 (1) of the Act.

4. The petitioner desires to point out that the use of the land in question for the laying of the flushout and drainage connections pipes from the house of Gopalakrishna Chetty is quite unnecessary. It is quite possible and convenient for the said Gopalakrishna Chetty to have his flushout privy and drains connected with the street main pipes by means of pipes running through his own house. In fact the owners of all houses in the street with the exception of Gopalakrishna Chetty have laid pipes connecting their privies and drains through their own houses. It was admitted by Gopalakrishna Chetty in the course of his deposition in C.M. No 19[illegible]/43-44 of the Court of the Ist Municiff Bangalore that the owners of other houses in the street like Seetharama Chetty have laid their flushout connection pipes through their own houses and that it was possible for him also to do likewise. He further stated that the reason for using the land in question was that it was common property a contention which was negatived by the court. A certified copy of his deposition is herewith produced. It is further submitted that the acquisition which intends to benefit only one person is not really necessary for the public purpose.

5. Gopalakrishna Chetty having thus failed in his contention that he is a co-owner of the land and being actuated by personal animosity against Petitioner is now endeavouring to get the land in question acquired in order to render the decree obtained by the petitioner infructous. It is submitted that this mala-fide object ought not to receive any kind of assistance from Public Authorities.

P.T.O.

6. The only proposed connection from the petitioner's house no doubt runs through this land. As owner of the land he is entitled to use it for this or any other purpose and no one else has any right to use the land for any purpose whatsoever.

7. If the land is left open and converted into a conservancy land as proposed people passing in the street and nuisance therein with the result that not only annoyance would be caused to the petitioner and his family and the sanitary condition of the entire locality would greatly deteriorate. In such order to avoid the land being used by passers-by in this manner a door had been provided for in the court yard portion. This door was removed while getting the drainage pipes from the petitioner's house laid through this land. The petitioner intends to have the door fixed up again as soon as the portion of the door obtained by him in the above suit is excluded. This step will avoid the nuisance which would be caused by pipe committed in the above land to the detriment of the health of members of his family as well as also other people in the neighbourhood.

7 (a) Other objections which do not fall within the purview.

8. For the foregoing reasons the petitioner (objector) submits:-

(a) that the use of the land is not required for [illegible] of northern side.

(b) that the acquisition of the land is not necessary for the public purpose of constructing the privy and the drains in connection with petitioner's house as 7 since admittedly it is possible to lay the connections through his own house as other people in the street have done.

(c) That [illegible] duly had given an undertaking in the court in the above-mentioned suit to remove the drainage connections of his house from the land in the suit and the building decree against him, and to lay the [illegible]

that the result of acquiring the land and constructing thereon a Municipal conservancy lorry as proposed would be to make the land a source of constant nuisance to the petitioner's family and other neighbours thereby rendering the locality extremely insanitary,

(e) that the effect of the acquisition would be to assist Gopalakrishna Setty to defy the solemn decree granted by the subordinate Judge and confirmed by the High Court of Mysore in the aforesaid suit and to render it quite infructuous and that no public authority ought to assist or encourage him in so defying the decree,

(f) and that the acquisition is not permissible in view of the proviso to s 6 (1) of the Land Acquisition Act.

9. For the foregoing reasons the petitioner objects to the compulsory acquisition of the land in question and prays that Petitioner be given a hearing so as to afford the petitioner an opportunity of producing all the references on which he relies and to have case fully presented by his counsel and that an inquiry to be held in accordance with s 5A (2) and a report be made to the Government that the acquisition is not necessary for any public purpose, that no conservancy lorry is called for in the locality and that the proposed acquisition be dropped.

(a) Raja Krishnamma Setty.

I, Raja Krishnamma Setty, petitioner above named state that what is set forth above is true to the best of my knowledge and firm belief.

(a) Raja Krishnamma Setty.

Bangalore City.
Dated 12th April 1940.

True copy
M Somanchandra
3/5/56

Copies to:-

1. Director of Public Health in Mysore, Bangalore.
2. Chairman, City Improvement Trust Board, Bangalore.
3. Executive Engineer, Bangalore Division, Bangalore.
4. Municipal Commissioner, City Municipality, Bangalore.
5. Municipal President, City Municipality, Bangalore.
6. The Health Officer, City Municipality, Bangalore.
7. The Secretary, Local Self Government.

MPM

అనుభవితో కూడు ఇరువురు ఈ పేటారక్షణ నిమిత్తమై
దుగకు గా నిమ్మవ్వశక్తి కోట్ర ఇరుత్వతో ఈ పేటారవు ఈ
నల్లూరతక్క నావు రూత్ర జనగకు నీడం తొగోదు హోండిరుత్తిదే
నమ్మనేకలు నంపక్కూయూవ విధవాద రుక్క బూధ్యతే సేమం.
ఇరువుదిల్లా నమ్మమూర ఫాడి జనగకొంద యూవ తక్షరారుగ
ఏను బందా ఇన్నూనాతోలాజవాయి ఫారరి శివాయి నిమగే సెయి
ఇరువుదేల్లా ఏందు నంతి కొడదా కోంట్రరుత్తేవే ఎంబుదాగి
గళా నేర్తనమ్మతియిందవజ్జి బరతెకోట్టగ్రయపత్రసేది —

మూర్నాలు రుజుగళు

ఇద్దరేసాక్షిగళు

1 మోళ్ళవల్లనారాయణశెట్టియ్యరోర్వ

2 వేంకట్రామశాస్త్రి

3 వేంకటాచలశెట్టి

4 రూపిగోవిందయ్య

టిక్షణం నారణయ్య

Registered Date 8-11-1897

Engraved with the original and the Copy found correct

K 8/8/1897

B R L Iyengar Esq,
Advocate,
Hardinge Road No 8/A
Shankarpur,
Bangalore City

GEN & REV SECRETARIAT
6166
3 FEB 1947
L S G BRANCH

Date 23-1-1947

To,

The Minister for Education & Public Health,

In Re The Proposed acquisiton of portion of Municipal Door No 5/2 and 6 Tankaslae Narayana Setty Lane, Second Division, Bangalore City-- No L 7035-ML-22-45-32

Sir,

In accordance with my personal representation before your honour today, as to the need for time till the 3rd week of February 1947 to be able to place before your honour for kind perusal, certain material particulars which are not part of the present record of the matter and which have been unfortunately omitted therefrom and also to furnish myself with fuller instructions I am herewith applying for your kind orders thanking you for your kindness

Yours Obediently,

B R L Iyengar

He may be given a hearing on the 10th Feb 47.

OFFICE OF THE MINISTER FOR EDUCATION & P H
DATE
24 JAN 1947

Rev Secy 25/1/47

Done

Information (MM)

L 1/2/47

K 13193 — R 28/3/47 Jul 23-46-81

L.10317/Q21/47 Immediate

To

Mr Raja Lakshminarayana Setty
No 6 Tamkasale Narayana Setty lane
II Division
Bangalore

By Meddam

With reference to his petition dated 11-11-46 addressed to the Minister for Education & Health against the acquisition of a portion of Door No 5/2 and 6, in the Tamkasale Narayana Setty lane, Bangalore City, Mr Raja Lakshminarayana Setty is informed that the Minister for Education and Public Health would inspect the spot in question, at 9 A M on

The 24th January, 1947 He is requested to be present at the time of inspection

B-o
for Rene Levy

4.5. PM
21/47

Memo no L/0318 d 24-1-47
Copy w c to the Municipal Town Planning Officer, Bloemfontein for information and necessary action with reference to his letter no L.C 1047/44-45 dated 19-11-1946

Muldam

B-o
for Beverley

15

4 30 PM

L 10386 Dt 22 1-47

Immediate

My Madam

To

Mr Ranga Lakshminarayana Selty

No. 6 Tamil Casada Narayana

Selty Lane, II Division

Mylapore

In continuation of this office

endorsement no L 103/7 d 21-1-47,

Mr Ranga Lakshminarayana Selty is

informed that the Minister for Education

would instruct the Chief Secretary

on Thursday the 23-1-1947, instead of

on 24-1-1947, as intimated previously

P To

Asst Secretary

for Secretary

K 13193 — R 28/3/47 Jul 23-46-GA

24 Madras — C 10929 — Immediate
2 PM — To — S(a)(4)

B R L Iyengar, Esq.
Advocate
Hardinge Road. No 3/A
Shankarpuram
Bangalore City

Sir,

In reply to your letter dated 23-1-1947 addressed to the Minister for Education and Public Health, I am directed to inform you that the Minister for Education & P H has been pleased to grant you a

~~hearing~~ the
~~hearing~~ on 20th February, 1947, in
connection with the proposed acquisition
of a portion of Municipal door No. 57-
and 6, in the Tandiyandal Nayagana
Setty Lane, II Division, Bangalore
City, by the City Municipal Co

Yours faithfully
~~Secretary~~

~~Secretary~~

L 13193 dt 28/3/47 rec'd 23-4-47

Endorsement granted to

Mr Raja Lakshmi narayana Setty

No. 6 Tambachetty Narayana Setty

Lane — II Division - Bangalore

City

In continuation of this office letter

No L 10386 dated 22-1-1947 the

Petitioner is informed that necessary instruc-

tions have been issued to the Municipal

Town, Bangalore city, to check the acquisition

-credits - in respect of a portion of Door No 5/2 and 6 in the

Tambachetty Narayana Setty Lane, II Division, Bangalore city

B-o

for Revenue

Memo No L 13194 dt 28/3/47 rec'd

City are to the Municipal Town Bangalore

City for urgent necessary action with

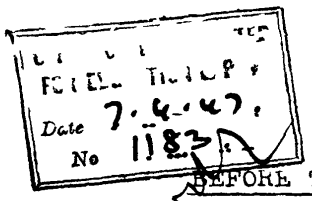
reference to his letter No L1 C 10467

dated 19-11-1946

Government consider that there is no need to sanction the acquisition of the properties in question by the Bangalore City Municipal Council as it would not serve any public purpose

The records are herewith returned

Yrs
17/Nov
for Secretary



I think I have already passed orders on this H.L. 7/4/47 Revised

BEFORE THE MINISTER FOR EDUCATION & PUBLIC HEALTH

Statement filed by Raja Lakshminarayana Setty, Petitioner in the proposed acquisition of a portion of door No 5½ and 6 in Tankasale Narayana Setty lane, Second Division, Bangalore City - Ref No L:7035 - H L 22-45-32

In continuation to the petition of Objections already filed before the Land Acquisition Officer -

May it please your honour,

The Petitioner submits for kind consideration the following facts,-

Even so long ago as the year 1941 the Municipality, on an application from one Mr N Gopalakrishna Setty, sent an Endorsement to the present petitioner to produce his title deeds to the lane now proposed to be acquired, and prove his title to the said lane The Petitioner accordingly produced his title deeds to the said property and sent the Municipality a reply through his consel Mr K Venkatasubbiah Setty This matter continued to be contended by either side that is, the Municipality as their own property and the present petitioner as his, while the petitioner placed all documents of title to the said property, the Municipality were unable to prove their claim in any way and the matter rested there

The present petitioner filed a suit O S No 195/41-42 before the First Munisiff Bangalore for a declaration that Mr N Gopalkrishna Setty, who had laid flushout pipes in the petitioner's land i e the present lane, had no right whatever to do so, to restrain him from continuing to lay the said pipes and further to remove the pipes already laid The said Gopalkrishna Setty first claimed ownership of the lane and subsequently claimed inconsisttenly a right of easement of necessity The Munisiff dismissed the petitioner's suit

shit holding that Mr. Gopalakrishna Setty had a right of easement in the lane. The present petitioner appealed to the Subordinate Judge in Regular Appeal No 155/42-43 who reversed the judgement of the learned Munisiff and clearly held the petitioner the absolute owner of the l and that ~~Gopalakrishna~~ Gopalkrishna Setty had no right of easement to lay his flush pipes in and along the petitioner's lane. The judge also ~~xk~~ noticed and pointed out that in the course of the deposition of Gopalakrishna Setty he himself had said that he could lay his flushout pipes in and through his own land and premises as others in that locality had done, without tresspassing on the present petitioner's land The judge also held that Gopalakrishna Setty had no right of Easement of necessity at all This judgement was upheld in Second appeal by the High Court in S A No 216/43-44 Thus it was clearly established in the Highest Court that the present petitioner was the absolute owner the lane in question without any right outstanding in any body to use it in any manner The Judgement of the Subordinate Judge and the High Court are herewith appended and the relevant portions flagged and marked for your honours perusal

The said Gopalkrishna Setty after ~~having~~ thus having failed completely to prove his right to use the petitioner's lane in Civil courts, began to approach the Municipal authorities by petitioningthem to acquire the present petitioner's lane The Municipality however not realising the delicacy of their having to acquire the very land which they had claimed as their own and all this at the instance of a private party, proceeded to acquire this lane and to that end The Municipal Engineer inspected the spot and the usual proceedings followed

Thus your honour will be pleased to see that the proposed acquisition can serve no necessary purpose for any one else Even when there is a Government order to the

the effect that the Municipal Conservancy lanes may be given over to the owners of land to which the said lanes are appurtinent if there is no water main or sub main running, That this petitioner's private property which is only a blind lane where there is no Municipal drain or water line running, should be acquired for a public purpose is very strange and out of the way

Your honour has been pleased to have inspected the spot and appreciated the position for yourself It will be very easily seen that ~~it~~ Gopalakrishna Setty can according to his own admissions avail himself of every sanitary amenity and convenience without having to ~~k~~ interfere with present petitioner's land, there is no other section or member of the public who will be served by the acquisition of this lane

Taking ~~with~~ into your honour's kind consideration and having regard to the foregoing circumstances and reasons your honour will be pleased to see that there is no bonafide public purpose whatever to be served by the acquisition Wherefore the petitioner humbly prays that in justice, fairness and equity your honour be pleased to refuse the sanction to this proposed acquisition

Your obedient Servant,

20th February 1947

B L-L Iyengar

Advocate for Petitioner

Copy of petition dated 11th November 1946 from Raja Lakshminarayana Setty, No.6 Tankasale Narayana Setty, IInd Division, Bangalore City, to the Minister for Local Self-Government, Government of Mysore, Bangalore.

Ref.- No.L 7035-Ml.22-45-32 In the matter of the proposed acquisition of portion of Municipal Door No.5/2 and 6 Tankasale Narayana Setty Lane, Second Division, Bangalore City.

In continuation of the objections to the acquisition of the above property submitted by me to the Special Land Acquisition Officer, Bangalore City Municipality on 14th April 1946 (copy of which herewith produced to you for reference), I beg to state that the proposed acquisition is not necessary in public purpose and will not be useful to the public

The acquisition is really intended to benefit one Mr. N. Gopalakrishna Setty, owner of House No.7 to enable him to defy the decree in O.S No.195/42-42 of the First Munsiff's Court, Bangalore and in R A.No.155/42-43 in the Court of the Additional Sub Judge and finally confirmed by High Court in S A No 216/43-44.

I pray that my objections above-mentioned may be refe to and what I have stated above may also be taken into consideration and the proposal to acquire the land in question be not sanctioned

---

Cpg